IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15264 of 2005

Between:

Akula Ramachandra Reddy S/o. Gangi Reddy
R/o. K. Sunkesula Village Khajipet Mandal
Kadapa District.

..... PETITIONER

AND

1 The Executie Engineer Panchayat Raj Department
Kadapa.
2 The District Panchayat Officer
Kadapa.
3 The District Collector,
Kadapa, Kadapa District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not following the due process of law regarding the road widening in the petitioners land in Sy.No.893/3 of K. Sunkesula Village, Khajipet Mandal, Kadapa District as illegal, arbitrary and violation of the provisions of the constitution consequently direct the respondents to follow the due process of law regarding the road widening works in the petitioners land in Sy.No.893/3 of K. Sunkesula Village, Khajipet Mandal, Kadapa District and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.S.BHATT

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.3 : GP for Revenue.

The Court at the stage of admission made the following

ORAL ORDER:

This writ petition is filed to declare the action of the respondents in not following the due process of law regarding the road widening in the petitioner's land in Sy. No. 893/3 of
K. Sunkesula village of Khajipet Mandal in Kadapa District as illegal and arbitrary and for a consequential direction to the respondents to follow the due process of law.

The facts of the writ petition go to show that the petitioner is absolute owner of the land to an extent of Ac.1.23 cents in Sy. No. 893/3 of the said village and it is under his cultivation. It is further submitted that very recently the Panchayat Raj Department made certain proposals to lay a pucca road of 9 KMs. from Khajipet to Midathur and that the workers started digging his land other than the land occupied by the road on both sides. If that would be the situation, the petitioner will loose an extent of about 7200 sq. feet of his land. The officials have not followed the due process of law as required under the Land Acquisition Act under Section 4(1) notification, before beginning the work. Hence the present writ petition.

Learned counsel for the petitioner submitted that in a similarly situate case, a Division Bench of this Court in ***PILLI LAKSHMAN RAO & ORS, VS. EXECUTIVE OFFICER, GRAM PANCHAYAT, CHALLAPELLE & OTHERS*** issued certain guidelines, wherein it was observed that

> *"If the authorities, viz., the Mandal Revenue Officer, Revenue Divisional Officer, Executive Officer of local authority want to take any action of eviction, dispossession or demolition, first they shall issue a notice to the occupant/s calling upon him/them to show cause as to why the proposed action shall not be taken. In receipt of such objections or explanation, if there is any objection as to the ownership of the property, the Mandal Revenue Officer or other authorities concerned shall determine the extent of encroachment or unauthorized occupation and shall determine whether the property ;in question belongs to the Government or any other local self Government authority or to the occupant/s. In case of demolition of the private property, the Mandal Revenue Officer or other authorities concerned shall determine the loss caused to the occupant/s on the basis of the assessment to be made by the engineer of Roads and Buildings Department. On such assessment of damages, the Mandal Revenue Officer or the concerned authority shall take appropriate steps to disburse the amount qualified forthwith. If the demolition took place is in respect of the property of*

the Government, the question of payment of damages will not arise. The occupant/s is/are entitled to remove the material used for the construction. The Mandal Revenue Officer shall issue a notice within 60 days from the date of receipt of a copy of this Order calling upon the claimant/occupant/s to show-cause as to why the action proposed shall not be taken by giving 60 days time to file the objections, if any. The person interested viz., the occupant/s shall submit him/their objections or explanation within the time stipulated together with any other documents he/they would like to rely upon in support of his their case. On receipt of such explanation/objections and documents, if any, the Mandal Revenue Officer or the concerned authority shall consider the same, if necessary, by giving an oral hearing and then pass appropriate orders within three months thereafter. In case of any enquiry, the same should be conducted in a summary way and the occupant/s shall produce all the evidence which he/they wants/want to rely upon before the Mandal Revenue Officer on the appointed day. (para 8)

If there is any claim for grant or assignment of the property, the concerned officer shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of the occupant/s. In cases of demolition, the loss caused shall have to be assessed by the engineer of the area concerned, who, before assessing, shall visit the premises along with the officer concerned and the occupant/s or the person/s interest on the date notified by the concerned officer. The occupant/s shall appear before the concerned authority on all the dates in order to complete the enquiry at an early date." (para 9)

Therefore, this writ petition is also disposed of at the stage of admission with a direction to the respondents to follow the observations made and directions issued by the Division Bench of this Court in the case referred to supra. No costs.

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kvsn 14-07-2005

To

1 The Executie Engineer Panchayat Raj Department
Kadapa.
2 The District Panchayat Officer
Kadapa.
3 The District Collector,
Kadapa, Kadapa District.

4 Two CCs to GP for Panchayat Raj and Rural Development, High Court buildings, Hyderabad.

5 Two CCs to GP for Revenue, High Court buildings, Hyderabad.

6 Two CD copies.